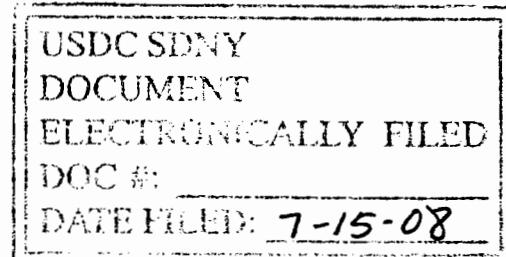


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
 JERRY FRITH, :
 :
 Petitioner, : 07 Civ. 5899 (JSR)
 :
 -v- :
 :
 NEW YORK CITY POLICE DEPARTMENT, :
 :
 Respondent. :
 -----x

JED S. RAKOFF, U.S.D.J.



On March 24, 2008, the Honorable Debra Freeman, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that the Court deny the motion to dismiss of defendant the New York City Police Department ("NYPD") without prejudice to the NYPD's refiling such a motion after plaintiff Jerry Frith's amended complaint is duly filed and served. Magistrate Judge Freeman made a similar recommendation with respect to the motion to dismiss of the federal government, to the extent the federal government's letter of August 7, 2007 can be construed as such a motion.

No party has filed any objection to the Report and Recommendation, and, for that reason alone, the parties have waived any right to further appellate review. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000). Accordingly, the Court hereby adopts the Report and Recommendation, and, for the reasons

therein, dismisses the motions to dismiss without prejudice to refiling them as to the amended complaint.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
July 15, 2008